

The 13th March, 1995

No. 14/13/87-6Lab./383.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s. M. D. Haryana Ware Housings Corporation, 17-E Chandigarh versus Union President Employees Association, Haryana.

IN THE COURT OF SHRI S. R. BANSAL (ADDL. DISTT. & SESSIONS JUDGE) PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AMBALA

Reference No. IT-R-9/89

UNION PRESIDENT EMPLOYEES ASSOCIATION, HARYANA WARE HOUSING, JAIN COLLEGE ROAD, AMBALA CITY .. Workman

And

THE MANAGING DIRECTOR, HARYANA WARE HOUSING CORPORATION, S.C.O. 8, SECTOR 17-E, CHANDIGARH .. Management

Present :

WR. Shri J. R. Sharma.

MR. Shri P. S. Sharma.

AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workmen union President Employees Association, Haryana Ware Housing, Jain College Road, Ambala City and the management Managing Director, Haryana Ware Housing Corporation, S. C. O. 8, Sector 17-E, Chandigarh to this court for adjudication,—vide Haryana Government Notification bearing No. 16001—16005, dated 4th April, 1989:—

- (1) क्या प्रबंधकों की केवल बेसिक वेज के 8.33 प्रतिशत की दर से श्रमिकों की भविष्य निधि की ओर योगदान करने की कारवाई न्यायोचित तथा ठीक है ? यदि नहीं तो किस विवरण से ?
- (2) क्या श्रमिकों की टिफन भत्ता देने की मांग न्यायोचित तथा ठीक है ? यदि हाँ तो किस विवरण से ?
- (3) क्या संस्था के क्षेत्रीय कार्यालयों में कार्यरत श्रमिकों की चिकित्सा भत्ता में बढ़ोतरी करने की मांग न्यायोचित तथा ठीक है ? यदि हाँ तो किस विवरण से ?

Haryana Ware Housing Corporation Employees Association (for short called as the 'Union') has raised the present dispute by serving a demand notice dated 6th October, 1988. The Labour Officer-cum-Conciliation Officer held the conciliation proceedings. The same having failed, the appropriate Government made the above mentioned reference to this court.

On receipt of the reference notices were issued to the union as well as to the management. The union appeared and submitted the statement of claim dated 30th June, 1989. It was alleged in the claim statement that the Central Ware Housing Corporation has 50 per cent shares of the management whereas the remaining 50 per cent are shared by Government of Haryana. It is alleged that the management has been violating the employees Provident Fund (Miscellaneous Provisions) Act, 1952 in as much as it has been deducting 8.33 per cent on account of employees share and contributing @ 8 per cent and 8.33 per cent of the basic pay only while the deduction and contribution is to be made under the provision of the Act on the basic pay + DA + any retaining allowance. So the management is liable to contribute on the above mentioned gross wages and is further liable to compensate the damages caused to the employees with retrospective effect. It has also been alleged that the management has not been contributing the employees and employers share for the first year of service rendered by the employees so much so the rate of interest paid by the management is 2 to 3 per cent less than on the rate of interest declared by the Government from time to time. It is further the case that no payment of G. P. F. has been made to the *ad hoc* employees or to the employees who have been separated from the service of the corporation and on this account the corporation has forfeited a sum of more than Rs. One Lac. It is further alleged that the management is to contribute @ 10 per cent employees and employers share w. e. f. 1st June, 1989 as declared by Government of India along with rate of interest as rate payable. It is further the case that the deposit link insurance scheme provided

under the Act has also been violated by the corporation and thus better scheme in lieu of this is demanded. It is also alleged that the corporation has not been implementing the family pension scheme provided under the Act nor has it been providing any facility of food to the employees while on work on the subsidized rates and therefore the workmen are entitled Rs. 60 per month on account of Tiffin allowance w.e.f. October, 1988. The Union has further claimed Rs. 200 per month on account of medical facility in addition to Rs. 200 per annum already being paid to them.

The management pleaded that the corporation is paying wages, the benefits and extending the facilities as per policy of corporation framed from time to time and approved by the State Government and further that it has not violated any rules of employees Provident Fund as alleged.

The Union submitted replication controverting the allegations of the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision,—vide order dated 12th February, 1990 :—

- (1) क्या प्रबंधकों की केवल बेसिक वेज 6:35 की दर से श्रमिकों के भविष्य निर्ध की ओर योगदान करने की कारवाई न्यायोचित तथा ठीक है ? यदि नहीं तो किस विवरण से ?
- (2) क्या श्रमिकों की टिफन भत्ता देने की मांग न्यायोचित तथा ठीक है ? यदि हाँ तो किस विवरण से ?
- (3) क्या संस्था के क्षेत्रीय कार्यालयों में कार्यरत श्रमिकों की चिकित्सा भत्ता में, बढ़ोतरी करने की मांग न्यायोचित तथा ठीक है ? यदि हाँ, तो किस विवरण से ?
- (4) क्या वादीगण claim file करने से estopped है ?
- (5) रिलीफ ?

Parties led evidence. I have heard the representatives of the parties. My issue-wise findings are as under :—

Issues No. 1, 2 & 3 :

In support of his case the union has produced WW-I Shri N. S. Chauhan, its president who has supported the case of the union as made out in the claim statement. The union has also produced documents Ex. W-1 to W-8. In rebuttal the management produced MW-I Shri R. B. Sharma, Secretary of the management who has supported the case of the management as made out in the written statement. The statement of the witness examined on behalf of the management shows that the provident fund is being deducted and contributed as per rules framed by the Haryana Ware Housing Corporation. The management is not supposed to work as per wishes of the union. Moreover the provident fund is always applicable on the basic salary and not on the allowance as alleged by the union. Moreover the union should approach the Regional Provident Fund Commissioner who is the competent authority to adjudicate upon the matter if the union is so aggrieved. The witness of the management has also stated that the corporation is having contributing provident fund scheme so the question of grant of pension does not arise. The witness examined by the management has also stated that there is no such practice in the State Government or the corporation to provide fund to the employees on subsidised rates. Hence the union can not be held entitled to Rs. 60 per month per employee on account of difference allowance. Further more the corporation following State Government instructions regarding payment of fixed medical allowance and the workmen union can not, therefore, be held entitled to any further increase in the medical allowance. The finding on all these issues shall, therefore, stand returned against the workman-union and in favour of the management-corporation.

Issue No. 4 :

The onus to prove on this issue was on the management. The management has not argued this issue at the time of arguments. The finding on this issue is, therefore, returned against the management and in favour of the workmen-union.

Relief :

In the end, it is held that the workmen-union is not entitled to any relief.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 25th January, 1995.

Additional District & Sessions Judge,
Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala.

Endorsement No. 118, dated the 25th January, 1995.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S. R. BANSAL,

Additional District & Sessions Judge,
Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala.